

IN THE HIGH COURT OF HIMACHAL PRADESH  
SHIMLA

**CWP No. 286 of 2006**

**Date of decision: 10<sup>th</sup> May, 2007**

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|                         |               |                 |
|-------------------------|---------------|-----------------|
| Sukarma Devi            |               | ...Petitioner   |
|                         | <b>Versus</b> |                 |
| Union of India & others |               | ... Respondents |

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*Coram:*

**The Hon'ble Mr.Justice Deepak Gupta,J.**

**The Hon'ble Mr Justice Surinder Singh, J.**

*Whether approved for reporting ?<sup>1</sup>*

**For the Petitioner : Mr Ajay Sharma, Advocate.**

**For the Respondents : Mr Sandeep Sharma, Asstt.  
Solicitor General of India.**

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Deepak Gupta,J. (Oral)

The petitioner has filed the present writ petition praying that the family pension, which was being initially paid to her and was stopped, may be directed to be paid to her.

The facts of the case are that the husband of the petitioner Sh. Roshan Lal Rathore was employed in the Indian Navy as Petty Officer and he died on 12th February, 1972. The family pension was released in favour of his widow, the present

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<sup>1</sup> *Whether the reporters of Local Papers may be allowed to see the judgment ?*

petitioner, on 28th February, 1973. The petitioner drew the pension up to 28<sup>th</sup> February, 1977 and no pension was paid to her from March, 1977 onwards. It appears that the family pension of the petitioner was discontinued on the ground that she had re-married.

The petitioner filed Civil Suit No. 35 of 1995 in the court of Senior Sub Judge, Hamirpur (HP), seeking a decree for declaration to the effect that she was the legally wedded wife of late Roshan Lal Rathore and was entitled to pensionary benefits after his death. The aforesaid suit was decreed in her favour and a decree of declaration was granted to the effect that the plaintiff-petitioner is the widow of late Sh. Roshan Lal and has not contracted any second marriage and is entitled to grant of family pension. This judgment and decree was challenged before the learned District Judge, who allowed the appeal filed by the Union of India. Thereafter, the petitioner herein filed RSA No.209 of 2005 before this Court and this RSA was partly allowed and suit of the present petitioner was decreed to the effect that she was the legally wedded wife of

Roshan Lal Rathore (since deceased) and she had not contracted any second marriage with Salig Ram.

Thereafter, the petitioner again represented to the respondents for payment of pension. On 26<sup>th</sup> March, 2007 Mr Sandeep Sharma, learned Assistant Solicitor General of India showed us a communication dated 31<sup>st</sup> July, 2006 sent by the Commander, Sr. Staff Officer (Pension) to the present petitioner asking her to furnish certain documents for continuation award of family pension. We had then directed the petitioner to file an affidavit, as to whether she has received this communication and if so, what has been the result. The petitioner has filed the affidavit and she has annexed therewith two communications dated 13<sup>th</sup> October, 2006 and 30<sup>th</sup> October, 2006. The petitioner has also stated that thereafter she had received one letter dated 18<sup>th</sup> January, 2007 but she has misplaced the same. Perusal of the letter dated 30<sup>th</sup> October, 2006 clearly shows that the family pension has been sanctioned in favour of the petitioner and it has been ordered that the PRO be issued at an early date. We, therefore,

dispose of this petition with the following directions:

- a) in case no documentation is required to be completed by the petitioner then the respondents shall ensure that the pension is released in favour of the petitioner along with all the arrears within a period of three months from today;
- b) in case the respondents want the petitioner to furnish any other document they shall send a communication by registered post in this behalf to the petitioner within a period of six weeks from today. A copy of this communication shall also be sent to Mr Ajay Sharma, Advocate, High Court of Himachal Pradesh, Shimla;
- c) In case documentation is required and the respondents give notice to the petitioner and her counsel as ordered in direction No.2 above, the petitioner shall ensure that the documentation is completed within a period of one month from the receipt of the communication. In case the petitioner completes the documentation within a period of one month, the pension of the petitioner shall be released within a period of three months thereafter;

d)           in case the pension is not released  
              within the time schedule, as indicated  
              herein above, the respondents shall be  
              liable to pay interest @ 12% per annum  
              on the arrears of the pension.

              The writ petition is disposed of in the  
above terms.

              No orders as to costs.

(Deepak Gupta), J.

May 10, 2007  
(D)

(Surinder Singh), J.

